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SUMMARY

As this Petition shows, Scripps Howard Broadcasting Company, directly or through its media subsidiaries:

- Has been adjudicated to have improperly paid public officials and peddled the influence of local citizens in order to obtain a monopoly cable franchise;
- Has settled numerous lawsuits alleging that Scripps took abusive steps to thwart competition, including predatory pricing, litigation, and threats of retaliation against competitors;
- Has failed to disclose, in its WMAR-TV license renewal application, a jury's adjudicated finding that its cable subsidiary engaged in anticompetitive conduct;
- Has been adjudicated to have engaged in a "worst-case scenario of sophisticated and subtle racism in private sector employment" with respect to one of its television stations;
- Has taken malicious steps to impede the prosecution of Four Jacks' instant application, as well as applications involving the other television stations of Four Jacks' principals. These steps included groundless objections to routine pro forma assignment applications (including private microwave assignment applications), as well as egregious attempts to interfere with Four Jacks' Channel 2 tower proposal.

All of these facts raise serious questions as to whether Scripps has the requisite character to remain the licensee of WMAR-TV. Scripps' record of past anticompetitive, discriminatory and abusive activity demands the addition of issues to explore the impact of this conduct on Scripps' basic qualifications.

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C.

RECEIVED

MAY 13 1993

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

In re Applications of

SCRIPPS HOWARD
BROADCASTING COMPANY

For Renewal of License of
Station WMAR-TV,
Baltimore, Maryland

and

FOUR JACKS BROADCASTING, INC.

For Construction Permit for a
New Television Facility on
Channel 2 at Baltimore,
Maryland

) MM Docket No. 93-94

) File No. BRCT-910603KX

) File No. BPCT-910903KE

To: The Honorable Richard L. Sippel
Administrative Law Judge

**PETITION TO ENLARGE ISSUES AGAINST
SCRIPPS HOWARD BROADCASTING COMPANY**

Four Jacks Broadcasting, Inc. ("Four Jacks"), by its attorneys and pursuant to Section 1.229 of the Commission's Rules, hereby petitions the Presiding Judge to add the following issues against Scripps Howard Broadcasting Company ("Scripps"):

- (1) To determine whether, in light of its history of media-related anticompetitive and discriminatory conduct, including adjudicated findings of misconduct, Scripps is fit to be a Commission licensee;
- (2) To determine whether Scripps misrepresented facts and/or lacked candor before the Commission by failing to report, in its renewal application for WMAR-TV, an adjudicated finding of anticompetitive misconduct;

- (3) To determine whether Scripps has engaged in an abuse of the Commission's processes in order to impede Four Jacks' prosecution of its mutually exclusive application;
- (4) To determine whether, in light of the evidence adduced pursuant to Issues (1), (2) and (3) above, Scripps is basically qualified to remain the licensee of WMAR-TV.^{1/}

As set forth below, the record concerning Scripps and its

I. FACTUAL BASIS FOR ISSUE ADDITION

A. Scripps Has a History of Anticompetitive Conduct, Including Adjudicated Findings of Misconduct

1. Scripps is a vast media conglomerate, owning broadcast stations, cable television systems, newspapers, and other media enterprises throughout the United States.^{2/} As shown below, on numerous occasions Scripps has been alleged -- and in at least one case affirmatively found -- to have engaged in illegal anticompetitive conduct. Exhibit 1 hereto, a complete copy of a Petition to Deny filed by Pacific West Cable Television ("PacWest") on November 20, 1990 against the license renewal applications of Scripps broadcast stations KUPL(AM) and KUPL-FM, Portland, Oregon, contains a "confidential memorandum" by an official of the Scripps-owned cable franchisee in Sacramento, California, setting forth the entity's goal to "retain a 100% market share" by a strategy of "defeat[ing] any and all" competition. Exhibit 1, Tab B, Ex. V. As the facts below demonstrate, this philosophy speaks loud and clear in Scripps' actions.

1. Scripps' Sacramento Cable Television Subsidiary

2. Scripps is the ultimate controlling owner of Sacramento Cable Television ("SCT"), the operator of a cable television system serving Sacramento, California. In July 1987, a jury of the United States District Court, Eastern District of California,

^{2/} Scripps' numerous media holdings are detailed in Scripps' Integration and Diversification Statement in this proceeding, filed May 7, 1993.

found the process by which SCT had been awarded the Sacramento cable franchise to be illegal. See Pacific West Cable Co. v. City of Sacramento, 672 F. Supp. 1322 (E.D. Cal. 1987)

("PacWest") (appended hereto as Exhibit 2). The suit was brought by PacWest, a would-be provider of a competing cable service in the Sacramento area.

3. The PacWest jury found the Sacramento franchising process to be an illegal scheme to trade a monopoly franchise in exchange for various payments. Id. at 1349-50 (Special Verdict #12). In Special Verdict #12, the jury found that the City of Sacramento had employed a "sham [franchising process] . . . to promote the making of cash payments and provision of 'in kind'

of 73" lobbied city and county officials on behalf of the Scripps-controlled franchisee. The jury found SCT to have engaged in impermissible "influence peddling" to obtain the Sacramento franchise. See Exhibit 1, Tab A, Att. V.

5. Exhibit 1 hereto contains the comprehensive details of the anticompetitive conduct of Scripps subsidiary SCT, both before and after the PacWest verdict. As shown therein, the PacWest verdicts were returned in early June of 1987. A month later, the City of Sacramento amended its franchise ordinance to allow a limited degree of cable competition to SCT. The City did so in the face of heated threats by SCT, which pledged to sue the City for "hundreds of millions of dollars in damages." Exh. 1, Tab A, Att. III. In fact, SCT did bring legal action against the City of Sacramento, first seeking a temporary restraining order, and then, bringing a mandamus action to foreclose the City from permitting competition. Both of these attempts were rejected by the court.

6. At approximately the same time, in the wake of the PacWest verdicts, SCT was making all manner of threats of retaliation against PacWest. Within weeks of the entry of the jury verdicts, Scripps sent letters to various cities where principals of PacWest operated cable systems, "requesting to go head-to-head with those existing cable systems." Exh. 1 at 11. Moreover, PacWest presented evidence that the CEO of Scripps' cable subsidiary had stated that it was company policy

" . . . to look hard at other markets served by potential competitors" so that "if those companies make a move in Sacramento . . .
Scripps-Howard might counter by applying for

licenses in those cities to make competitors think twice about picking a fight."




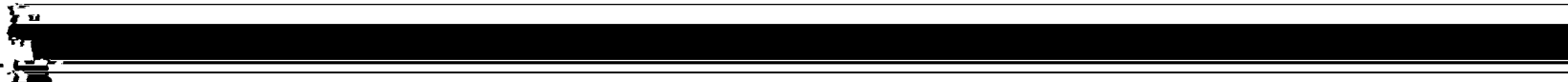
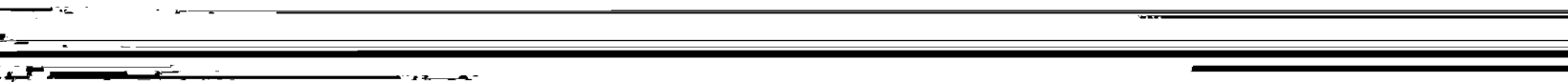
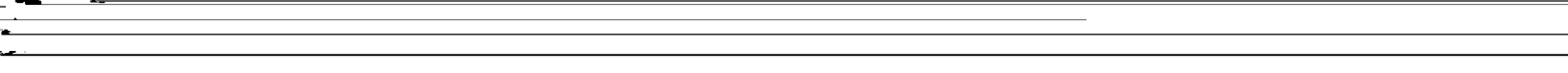



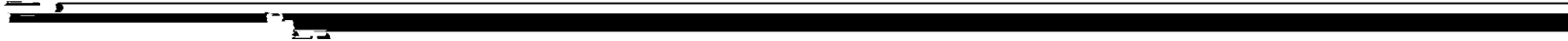
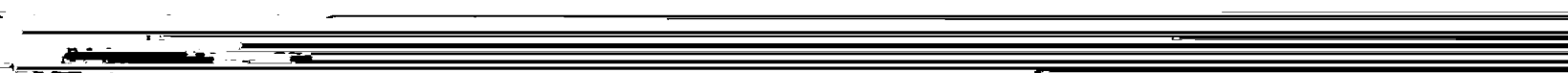
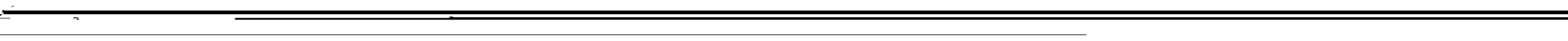
Id.; see also Exh. 1, Tab A, Att. 1, at 14-15.

7. In December 1987, SCT settled its dispute with the City of Sacramento over the amended ordinance allowing cable competition. The net result was a Memorandum of Understanding ("MOU") between the two parties. See Exh. 1, Tab B, Ex. III. In exchange for a cash payment by SCT of some \$15.3 million ("in lieu of Franchise Fees"), the MOU extended SCT's cable franchise term another 20 years. Additionally, and importantly, the MOU relieved SCT of the obligation to provide service at uniform rates throughout its franchise area. Instead, the MOU permitted "rate flexibility . . . in areas where head-to-head competition occurs."

8. By this time, PacWest had been authorized by the City of Sacramento to provide competing cable service in a limited area. SCT then embarked on a massive effort to drive PacWest out of business. For example, as reflected in Exh. 1, Tab B, Ex. IV, SCT -- armed with authorization to charge non-uniform rates in competitive areas -- began offering its basic cable service at the obviously predatory rate of a mere 25 cents per month. Later, SCT began offering free television sets to PacWest subscribers who switched to SCT's service. Exh. 1, Tab B, Ex. II, at 37-38.

9. SCT's predatory pricing was only part of its larger anticompetitive strategy. PacWest, in an attempt to cover its market quickly, had resorted to the use of MMDS to offer a competitive service. Soon thereafter, PacWest was notified that

the Turner Network Television ("TNT") program service it had been carrying pursuant to an earlier agreement would no longer be available. PacWest instituted suit to determine its contractual right to continue to offer TNT. Exh. 1. Tab B. Ex. VII. The



franchising authority once again as a result of that authority's award of a competing franchisee. SCT is also presently the subject of a class action lawsuit challenging the charging by SCT of non-uniform rates in competitive and non-competitive areas. See Exhibit 4.

2. Scripps' Glasgow, Kentucky Cable Subsidiary

13. Scripps controls TeleScripps Cable Company ("TeleScripps"), the private cable operator serving Glasgow, Kentucky. In November 1988, Telescripps sued the City of Glasgow, the city's Electric Plant Board ("EPB"), and the city's mayor and councilpersons in both state and federal court. As in Sacramento, the Scripps subsidiary's complaint centered around the City's award of a competing cable franchise. See Exhibit 6 hereto.

14. Specifically, in June 1989, the EPB began hooking up cable customers in direct competition with Telescripps. In September 1989, a state court granted TeleScripps a temporary restraining order barring the city-owned system from utilizing internal wiring installed by Telescripps. See Barren Circuit Court No. 89-CI-269. However, in August 1991, a jury found in favor of the EPB on TeleScripps' claim. TeleScripps appealed the jury's decision.

15. In the federal suit, the EPB filed a counterclaim charging TeleScripps with discriminatory pricing in violation of the Robinson-Patman Act. According to EPB, shortly before its system construction was completed in various areas of the city, TeleScripps offered subscribers in those areas substantially

discounted rates if they would agree to continue their service with TeleScripps for a minimum of one year. The federal court dismissed EPB's counterclaim on the ground that cable television service was a service, not a "commodity" for purposes of the Robinson-Patman Act.

16. On April 22, 1992, the City of Glasgow, the EPB and TeleScripps executed a settlement agreement providing for the renewal of TeleScripps' franchise, and the modification of the EPB's franchise so that it would be comparable to TeleScripps' renewed franchise. See Exhibit 7. The settlement agreement also provided that EPB and TeleScripps would reach an agreement covering inside wiring and subscriber change-over between the systems, and resolved EPB's pricing dispute with TeleScripps.

B. Scripps Has Engaged in Egregious Wrongdoing With Respect to Its Employment Practices at Its Memphis Television Station

17. Myron Lowery was a Black television weekend news anchor at Scripps-owned television station WMC-TV, Memphis, Tennessee. He brought a civil rights action against the station, alleging that the station discriminated against him on the basis of his race by denying him a promotion, denying him a written contract, and paying him less than similarly situated white station personnel. Lowery further alleged that WMC-TV demoted him in retaliation for filing suit.

18. On April 9, 1987, the U.S. District Court for the Western District of Tennessee held that: (1) Lowery was denied promotion from weekend to weekday news anchor because of his race; (2) WMC-TV racially discriminated against Lowery in the

terms and conditions of his employment, in that similarly situated white male employees were given a written contract; (3) WMC-TV racially discriminated against Lowery by paying him less than similarly situated white personnel; and (4) WMC-TV demoted Lowery in retaliation for filing suit. See Lowery v. WMC-TV, 658 F. Supp. 1240 (W.D. Tenn. 1987) (appended hereto as Exhibit 8).

19. In essence, the District Court judge found that WMC-TV racially discriminated against Lowery by its imposition upon him of an impossible and different standard for promotion than it imposed upon white male reporters. In Mr. Lowery's case, he would not be promoted "until everybody says that Myron Lowery is the best damned television reporter in Memphis." In contrast, white male reporters were promoted based on perceived "potential to break loose and be splendid."

20. The District Court judge found that the racial discrimination against Lowery by WMC-TV was "pervasive, continuing, invidious and on-going." 658 F. Supp. at 1244. According to the judge, "[t]his trial record demonstrates a worst-case scenario of sophisticated and subtle racism in private sector employment." Id. (emphasis added). Lowery was awarded \$274,000 in damages.

21. WMC-TV appealed the District Court's decision to the U.S. Court of Appeals for the Sixth Circuit. While the appeal

C. **Scripps Has Abused the Commission's Processes
By Attempting to Impede the Prosecution of
Applications Filed by Four Jacks and Its
Principals**

22. In Weststar Communications' lawsuit against the Scripps Sacramento cable subsidiary, plaintiffs alleged that

defendants, without any standing to do so, attempted to enjoin the issuance of any licenses permitting competition against it. Both of these efforts were unsuccessful but caused great expense and hardship to one or more of SCT's competitors. As to plaintiffs herein, said actions constituted sham litigation.

Exh. 1, Tab A, Att. 1, at 16. This passage captures almost precisely Scripps' attempts to impede Four Jacks' prosecution of its instant Baltimore application, as well as other applications filed by principals of Four Jacks.

23. Four Jacks filed its mutually exclusive application for Channel 2 in Baltimore on September 3, 1991. Later that month, various pro forma assignment applications were filed (on FCC Form 316) seeking the transfer of various television stations owned by Four Jacks' principals to subsidiary corporations owned by exactly the same principals. Out of the blue came Scripps, filing a petition for reconsideration of the routine grant of the applications. See Exhibits 9, 10 and 11 hereto. Scripps filed this petition for reconsideration despite the facts that: (i) it had no right under Commission rules to challenge the pro forma applications through even a petition to deny, much less its belated petition for reconsideration; (ii) Scripps made no attempt to establish its standing to challenge the applications; and (iii) absolutely no change in ultimate ownership of the

stations was being proposed by these purely ministerial applications.

24. Scripps went so far as to object in November 1991 to applications filed for the pro forma assignment of three private

transmission authorizations associated with Baltimore station

Cunningham Communications, Inc. ("Cunningham"), an entity owned by Four Jacks principals. The antenna for WBFF(TV) was formerly top-mounted on that antenna, and for decades the Federal Aviation Administration ("FAA") had cleared the tower for a height of 381 meters (1249 feet) above mean sea level. The top-mounted Channel 45 antenna was later removed from the structure when the station moved its antenna location. However, as Four Jacks proposed again to top-mount an antenna on the tower for its Channel 2 facility, Four Jacks wished to retain FAA clearance at the tower's approved 381 meter height.

27. Inexplicably, on December 5, 1991 -- little more than three months after Four Jacks' application was filed -- the licensee of radio station WPOC(FM), Baltimore, which leases space on the Catonsville tower, filed a construction-permit application to change the tower height to 368.5 meters.^{3/} As Cunningham pointed out in a February 11, 1992 letter concerning this application (Exhibit 17), the application to lower the tower's height came from a lessee of the tower, with no authority from the tower's actual owner and in the face of Four Jacks' pending proposal to use the tower's fully cleared height. On January 28, 1992, the tower height matter was raised in a petition to deny filed by Scripps against the Four Jacks application.

28. The fingerprints of Scripps are all over WPOC(FM)'s sudden and unauthorized application to "lower" the Catonsville tower height. Indeed, despite the apparent irrelevance of the

^{3/} Not so coincidentally, Richard Janssen, the former President of Scripps, was the President of Nationwide Communications, WPOC(FM)'s licensee, when Nationwide first sought to purchase WPOC(FM).

Catonsville site matter to Scripps, Nationwide's February 18, 1992 response to Cunningham's February 11 letter (not to mention other submissions by Nationwide concerning the matter) was copied to Scripps' Washington counsel. See Exhibit 18. Moreover, the next day Scripps filed a lengthy and unsolicited letter in "opposition" to Cunningham's February 11, 1992 correspondence to the FCC concerning the WPOC(FM) application. See Exhibit 19. As late as November 20, 1992, Scripps was attempting to intrude in a matter that, at least on the surface, did not involve it at all. See Exhibit 20.

Opposition to that petition, is highly erroneous. Scripps contacted Baltimore County engineers with the apparent hope that the County would declare the structure to be unsound, despite the fact that the Catonsville tower has been in existence for literally decades, presenting no difficulties. Thus, it is not surprising that the County authorities ultimately found the Scripps/Vlissides allegations to be meritless. See Exhibit 24.

II. LEGAL BASIS FOR ISSUE ADDITION

31. The Commission examines a licensee/applicant's character qualifications in order to look "for clues as to risks and for evidence as to expectable performance." Policy Regarding Character Qualifications in Broadcast Licensing, 102 F.C.C.2d 1179, 1189 (1986), recon. granted in part, 1 FCC Rcd 421 (1986), appeal dismissed sub nom. National Ass'n for Better Broadcasting v. FCC, No. 86-1179 (D.C. Cir. June 11, 1987) ("Character Statement") (quoting Westinghouse Broadcasting Co., Inc., 44 F.C.C. 2778, 2783 (1962)). As indicated by the facts above, Scripps' continued stewardship of WMAR-TV is rife with "risks." What the Commission can expect from Scripps in the future is apparent from the past: a licensee bent on destroying any and all competition, a licensee that fails to be forthcoming in its representations to the Commission, a licensee with a history of "worst-case" discrimination among employees, and a licensee that will employ any means, no matter how abusive, frivolous or intrusive, to halt any challenge to its media empire.

A. Scripps' History of Anticompetitive Conduct
Compels the Addition of an Issue in This
Proceeding

32. Concerns with media-related anticompetitive activity "have occupied a unique position in the Commission's regulatory scheme." Character Statement, 102 F.C.C.2d at 1201. No less an authority than the Supreme Court has held that the Commission is authorized to take cognizance of anticompetitive conduct by a licensee, as an integral element of the Commission's public interest determination. See NBC v. U.S., 319 U.S. 190, 222 (1943). The Commission is required to "make findings related to the pertinent antitrust policies, draw conclusions from the findings, and weigh these conclusions along with other important public interest considerations." United States v. FCC, 652 F.2d 72, 82 (D.C. Cir. 1980) (quoting Northern Natural Gas Co. v. FPC, 399 F.2d 953, 961 (D.C. Cir. 1968)). Indeed, as the Review Board recently stated in a comparative renewal case, the Commission's concern with anticompetitive conduct "is unabated." Fox Television Stations, Inc., FCC 93R-9 (released March 10, 1993), at 46 n.111 (citing Schurz Communications, Inc. v. FCC, No. 91-2350 et al. (7th Cir. Nov. 5, 1992)).

33. The facts herein reveal a lengthy and serious history of anticompetitive misconduct by Scripps, through media companies it controls. That history includes one adjudicated finding of misconduct, as well as numerous allegations of additional misconduct. Scripps has consistently shown its willingness to resort to any means necessary to eliminate would-be competitors. This is shown by Scripps' actions elsewhere, as well as by its

abusive attempts to impede Four Jacks and its principals in the prosecution of applications before the Commission.

1. Scripps Has Been Adjudicated to Have Engaged in Anticompetitive Misconduct With Respect to Its Sacramento Cable System

34. It is clear beyond question that the PacWest jury affirmatively found Scripps' Sacramento cable subsidiary, SCT, to have engaged in illegal conduct in the procuring of its monopoly franchise.^{4/} According to the jury, SCT (the "company ultimately selected to provide cable television service to the Sacramento market") made improper payments of money and services to franchising officials in return for the franchise, enlisting a

4/ Four Jacks has pending before the Presiding Judge a request to certify to the full Commission an application for review that would appeal the HDO's failure in this case to designate issues to determine the impact of the PacWest findings on Scripps' basic qualifications in this proceeding. This Petition to Enlarge is in no way intended to prejudice Four Jacks' prosecution of its certification request.

The Sacramento facts were raised by PacWest and its related entity, Weststar, in various petitions against the renewal applications of several Scripps broadcast stations. As settlements were reached in the PacWest/Weststar suits, the petitioners dropped their challenges, and their petitions were dismissed by letter orders by the Mass Media Bureau. As Four Jacks pointed out in a Consolidated Reply to Oppositions to Request to Certify Application for Review, filed on April 23, 1993, the boilerplate recitations in these letter orders make clear that the Commission has never meaningfully examined the impact of SCT's anticompetitive conduct on Scripps' qualifications to be a broadcast licensee. Furthermore, the last of the staff's letter orders, which dismissed PacWest's petition against the license renewals of stations KUPL(AM) and KUPL-FM, Portland, Oregon, affirmatively stated that the PacWest matters "will be resolved in the context of the WMAR-TV proceeding." At the time of that letter, which was issued on July 27, 1992, this proceeding was the only one pending concerning WMAR-TV.

group of 73 prominent residents to engage in "influence peddling" on SCT's behalf.

35. The relevance of this finding to Scripps' Commission qualifications cannot be doubted. Cable television is a broadcast-related activity, see United States v. Southwestern Cable Co., 392 U.S. 157 (1968), and thus the conduct of Scripps' Sacramento cable enterprise relates directly to a prediction of how Scripps will behave in the operation of its Baltimore station. Moreover, the Commission has warned that it "will in no way sanction the making of unlawful payments to secure cable television franchises." Teleprompter Cable Systems, Inc., 40 F.C.C.2d 1027, 1035 (1973).

36. It is beyond question that "adjudications involving antitrust or anticompetitive violations from a court of competent jurisdiction" are considered in the Commission's character inquiry. See Character Statement, 102 F.C.C.2d at 1202. In this regard, it is irrelevant that SCT was not a named party in the PacWest case, as neither the character qualifications policy nor the renewal application asks merely whether the entity in question was named in the caption of the non-FCC proceeding. Scripps' Sacramento cable subsidiary has been adjudicated to have engaged in anticompetitive activity that strikes at the core of the Commission's public interest policy. At a bare minimum, an issue is required to determine the impact of this adjudication on Scripps' qualifications to remain the WMAR-TV licensee.

2. The Non-Adjudicated Anticompetitive Misconduct of Scripps Must Also Be Explored at Hearing

37. Those facts concerning the anticompetitive conduct of Scripps' media businesses which were not formally adjudicated are no less deserving of exploration in this case. As the Supreme Court has explained, the FCC's interest in anticompetitive activities does not depend on a showing that the practices amount to a violation of antitrust laws. Rather, the Commission must consider the effect of anticompetitive practices on the public interest regardless of whether there has been a violation of the antitrust laws. NBC v. U.S., supra, 319 U.S. at 222-23; see also United States v. RCA, 358 U.S. 334 (1954); Philco Corp. v. FCC, 293 F.2d 864 (1961); Metropolitan Television Co. v. FCC, 289 F.2d 874, 876 (D.C. Cir. 1961). Moreover, the Commission has held that its predictive character analysis "does not hinge upon whether or to what extent the subject court decisions are technically conclusive but rather on what meaningful character insights the Commission can glean from those decisions." Focus Television Corp., 98 F.C.C.2d 546, 552 n.11 (Rev. Bd. 1984), modified, 1 FCC Rcd 1037 (1986).

38. The severity of SCT's conduct, as depicted in a host of lawsuits, cannot be ignored. The jury's finding that SCT engaged in influence-peddling and made improper payments to franchising officials is just the tip of the iceberg in Sacramento. Once the PacWest jury findings were issued, SCT threatened to retaliate against its competition. Once the franchising authority amended its law to allow cable competition, SCT sued the city to enjoin it from permitting such competition. Once competitors began

offering service, SCT began a campaign of predation, sham litigation, and pressuring of valuable cable programmers designed to drive competitors out of business. The situation was much the same concerning Scripps' Glasgow, Kentucky cable system. Once the municipality there instituted a competitive cable system, Scripps sued to stop it -- only to receive a counterclaim that it was engaged in discriminatory pricing of its service.

39. Notably, there is no indication that the facts alleged against Scripps in any of these lawsuits were wrong. In other words, this is not a case where factual allegations of anticompetitive misconduct were adjudicated in favor of Scripps. Quite the contrary, each of these lawsuits was ultimately settled out of court, in at least one case after an initial determination of Scripps' guilt, and in most cases with Scripps paying substantial sums of money to its opponents. Where allegations this serious are raised, they demand inquiry as part of the Commission's qualification review.

40. In sum, anticompetitive activity by a Commission licensee is at the heart of the Commission's character qualifications. At a minimum, the PacWest jury's adjudicated finding of misconduct by Scripps requires exploration at the hearing in this proceeding. In addition, however, the Commission is more than simply an adjudicator of the antitrust laws. The Commission has a much broader public interest mandate to fulfill. To carry out this mandate, the Judge should consider all of the serious anticompetitive activity in which Scripps, from all indications, has engaged -- whether or not formally adjudicated.

B. A Misrepresentation/Lack of Candor Issue Should Be Added Against Scripps for Its Failure to Disclose the PacWest Jury Finding

41. Scripps' renewal application for WMAR-TV (FCC Form 303-S) asked:

Since the filing of the applicant's last renewal application for this station or other major application, has an adverse finding been made or final action been taken by any court or administrative body with respect to the applicant in a civil or criminal proceeding, brought under the provisions of any law relating to the following: any felony; broadcast related antitrust or unfair competition; criminal fraud or fraud before another governmental unit; or discrimination? (Emphases added).

42. Scripps' renewal application was filed on June 3, 1991. This was well after the PacWest jury found Scripps' cable subsidiary to have engaged in anticompetitive conduct with respect to the procurement of the Sacramento cable franchise. Nonetheless, Scripps certified "no" in response to the above question. This certification was therefore patently false, and requires the addition of an issue.

43. In its Character Statement, the Commission emphasized that

[w]e believe it appropriate to give misrepresentation specific consideration in the context of this Policy Statement. The act of willful misrepresentation not only violates the Commission's Rules; it also raises immediate concerns over the licensee's ability to be truthful in any future dealings with the Commission.

* * *

As we have stated, the trait of 'truthfulness' is one of the two key elements of character necessary to operate a broadcast

station in the public interest. The Commission is authorized to treat even the most significant misrepresentation as disqualifying.

* * *

We believe it necessary and appropriate to continue to view misrepresentation and lack of candor in an applicant's dealings with the Commission as serious breaches of trust. The integrity of the Commission's processes cannot be maintained without honest dealing with the Commission by licensees.

102 F.C.C.2d at 1209-11.

44. The Review Board has similarly stressed that

[t]he fundamental importance of truthfulness and complete candor on the part of applicants, as well as licensees, in their dealings with the Commission is well established . . . Since the Commission must license thousands of radio and television stations in the public interest, it must therefore rely substantially on the completeness and accuracy of the submissions made to it.

Mid-Ohio Communications, Inc., 104 FCC Rcd 572, 598-99 (Rev. Bd. 1986), rev. denied, 5 FCC Rcd 940 (1990), recon. denied in part and dismissed in part, 5 FCC Rcd 4596 (1990) (citations omitted).

45. Where an applicant has failed to disclose relevant non-FCC adjudications, the Commission has not hesitated to explore such a dereliction in hearing. See Atlantic City Community Broadcasting, Inc., 6 FCC Rcd 925, 926-27 (Rev. Bd. 1991) (disqualifying applicant that failed to report adverse adjudication of sexual discrimination); see also C. Ray Helton, 4 FCC Rcd 1205, 1206 (M.M. Bur. 1989) (misrepresentation issue added against applicant failing to disclose existence of adverse felony-related adjudication). Since Scripps failed to reveal the PacWest jury finding in its WMAR-TV renewal application, a